



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

WILL WILSON
ATTORNEY GENERAL

July 25, 1962

Major General Thomas S. Bishop
Adjutant General
State of Texas
Austin, Texas

Opinion No. WW-1404

Re: Whether Chapter 6, Title
94, V.C.S., repealed
Chapter 5, Title 94,
V.C.S.

Dear General Bishop:

You have requested the opinion of this office as to whether the provisions of Chapter 6, Title 94, Vernon's Civil Statutes, operated to repeal the provisions of Chapter 5, Title 94, Vernon's Civil Statutes. Chapter 6 of Title 94 provides for the establishment of the Texas State Guard Reserve Corps. Chapter 5 provides for the establishment of the Texas State Guard.

Chapter 5 was originally enacted in 1941 by the 47th Legislature. It was amended in 1943 by the 48th Legislature. As envisioned by the Legislature, the Texas State Guard was to be organized by the Governor and maintained within this State during the period when the National Guard of this State was in active Federal service. The Texas State Guard was, and is, intended to take up any gap in the defensive forces of this State, thus providing for a continuing protective force in case of riot, disaster or invasion. Chapter 5 does not contemplate the organization of the Texas State Guard until such time as the National Guard of this State is called into active Federal service.

Chapter 6 provides for the establishment of the Texas State Guard Reserve Corps. The stated purpose of this chapter is to provide a reservoir of military strength for use by the State of Texas in time of national or state emergency, when any part of the Texas National Guard shall have been called into Federal service, or in any other emergency when the Governor of Texas shall deem it necessary or advisable to supplement the Texas National Guard as the State Militia of Texas, and to eliminate any delay in the organization of an adequate and efficient State Militia under such circumstances. In Section 2(b) of Chapter 6, we find the following statement:

"...and when activated or when upon active duty, the Texas State Guard Reserve Corps, or any element or unit thereof, shall function as the Texas State Guard and shall

be a part of the State Militia of Texas. . ."

It is apparent that the Legislature has, by the enactment of Chapter 6, provided for a reserve pool of manpower from which the ranks of the Texas State Guard, provided for in Chapter 5, may be quickly filled in cases of emergency. The two chapters are aimed at the same problem, although attacking different phases of it. Chapter 5 provides for a regular, active Texas State Guard, albeit in existence only during periods of emergency. Chapter 6 provides for the Texas State Guard Reserve Corps from which the Texas State Guard is drawn. There is no apparent inconsistency here. It must further be noted that the two chapters do not conflict in any material circumstance.

In view of the foregoing, it is the opinion of this office that Chapter 6, Title 94, of Vernon's Civil Statutes, does not operate to repeal Chapter 5, Title 94, Vernon's Civil Statutes.

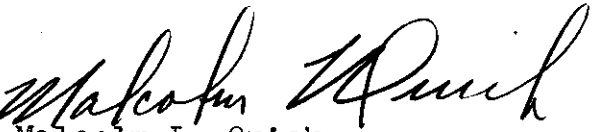
S U M M A R Y

Chapter 6, Title 94, of Vernon's Civil Statutes, does not operate to repeal Chapter 5, Title 94, Vernon's Civil Statutes.

Yours very truly,

WILL WILSON
Attorney General of Texas

By:



Malcolm L. Quick
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MLQ:ms:mkh

APPROVED:
OPINION COMMITTEE

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REVIEWED FOR THE ATTORNEY GENERAL
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